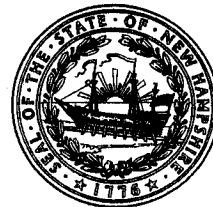




The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

May 18, 2006

A-Plus Finishing, Inc.
Attn: Stanley Araszkievicz
71D Pine Road
PO Box 966
Hudson, NH 03051

Re: Docket No. AF 06-010 Administrative Fine by Consent Agreement

Dear Mr. Araszkievicz:

Enclosed for your records is a copy of the fully executed and accepted Administrative Fine by Consent Agreement in the above-captioned matter.

On behalf of the Department of Environmental Services, thank you for your cooperation in resolving this matter.

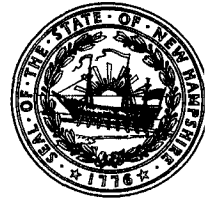
Sincerely,

COPY
Michael P. Occlani,
Legal Assistant

cc: Michael J. Walls, DES Assistant Commissioner
Anthony P. Giunta, P.G., Director, Waste Management Division
Gretchen R. Hamel, Administrator, DES Legal Unit
Kerry D. Barnsley, Compliance Attorney, DES Legal Unit
Jennifer J. Patterson, NH DOJ
Paul L. Heirtzler, DES WMD
Linda Birmingham, DES WMD
DES Public Information Officer



The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

A-Plus Finishing, Inc.
71D Pine Road
P.O. Box 966
Hudson, NH 03051

**ADMINISTRATIVE FINE
BY CONSENT**

No. AF 06-010

I. INTRODUCTION

This Administrative Fine by Consent is entered into by and between the Department of Environmental Services, Waste Management Division and A-Plus Finishing, Inc., pursuant to RSA 147-A and the New Hampshire Administrative Rule Env-C 601. This Administrative Fine by Consent ("Agreement") is effective upon signature by all parties.

II. PARTIES

1. The Department of Environmental Services, Waste Management Division ("DES"), is a duly constituted administrative agency of the State of New Hampshire, having its main office at 29 Hazen Drive, Concord, New Hampshire.
2. A-Plus Finishing, Inc. ("A-Plus") is a New Hampshire corporation with a mailing address of P.O. Box 966, Hudson, NH, 03051, and operates a facility located at 71D Pine Road, Hudson, New Hampshire.

III. BACKGROUND

1. Pursuant to RSA 147-A, the Department of Environmental Services regulates the management and disposal of hazardous waste. Pursuant to RSA 147-A:3, the Commissioner of DES has adopted Env-Wm 100-1100 ("Hazardous Waste Rules") to implement this program.
2. Pursuant to RSA 147-A:17-a, the Commissioner of DES is authorized to impose fines of up to \$2,000 per offense for violations of RSA 147-A or rules adopted pursuant thereto. Pursuant to this section, the Commissioner has adopted Env-C 612 to establish the schedule of fines for such violations.
3. A-Plus is a hazardous waste generator that notified the United States Environmental Protection Agency ("EPA") of its activities through DES on June 7, 1996. EPA Identification Number NHD500014451 was assigned to A-Plus' site located at 71D Pine Road, Hudson, New Hampshire. A-Plus filed a subsequent notification with DES on November 3, 2003, changing

A-Plus' generator status from a New Hampshire Small Quantity Generator to a New Hampshire Full Quantity Generator (Federal Large Quantity Generator).

4. On July 21, 2004, DES personnel inspected A-Plus for compliance with RSA 147-A and its implementing regulations, the New Hampshire Hazardous Waste Rules. As a result of the violations of the Hazardous Waste Rules observed during this inspection, DES issued Administrative Order No. WMD 04-15 ("Order") to A-Plus on December 8, 2004. Based on the violations observed during the inspection listed above, DES believes that an administrative fine is appropriate in this case for the Class I violations.

IV. ALLEGATIONS, ADMINISTRATIVE FINES

1. A-Plus failed to obtain a permit for the on-site disposal through evaporation of an F003 and an F005 hazardous waste (*i.e.*, spent acetone and spent methyl ethyl ketone), as required by RSA 147-A:4, I and Env-Wm 353.01 ("Violation 1"). Env-C 612.03(b) authorizes a fine of \$2,000 per disposal event, for a potential fine of \$4,000.
2. A-Plus failed to obtain a permit for the operation of a Wastewater Treatment Unit (WWTU), (*i.e.*, A-Plus's Limited Permit No. DES-HW-LP-97-008 expired on March 18, 2002), as required by RSA 147-A:4, I/Env-Wm 353.04 ("Violation 2"). Env-C 612.03(a) authorizes a fine of \$2,000 per treatment or storage unit.
3. A-Plus failed to conduct adequate waste determinations for the waste electroless nickel solution, and the waste lamps, as required by Env-Wm 502.01 ("Violation 3"). Env-C 612.05(a) authorizes a fine of \$1,500 per determination, for a potential fine of \$3,000.
4. A-Plus failed to close two (2) 30-gallon, one (1) 55-gallon and two (2) 10-gallon containers of hazardous waste in the main storage area and one (1) 55-gallon satellite container of hazardous waste adjacent to the evaporator, as required by Env-Wm 507.01(a)(3) ("Violation 4"). Env-C 612.06(c)(1) authorizes a fine of \$400 for each container that is 55-gallons or greater and \$200 for each container that is greater than 5-gallons but less than 55-gallons, for a potential fine of \$1,600.
5. A-Plus failed to mark two (2) 30-gallon, one (1) 55-gallon and two (2) 10-gallon containers of hazardous waste in the main storage area with the beginning accumulation date when they are first used to store hazardous waste, as required by Env-Wm 507.03(a)(1)a. ("Violation 5"). Env-C 612.06(k) authorizes a fine of \$250 for each container that is 55-gallons or greater and \$125 for each container that is less than 55-gallons, for a potential fine of \$750.
6. A-Plus failed to properly mark two (2) 30-gallon, one (1) 55-gallon, and two (2) 10-gallon containers of hazardous waste in the main storage area with the words "Hazardous Waste", the contents of the container, and EPA or state waste number, as required by Env-Wm 507.03(a)(1)b., c., and d. ("Violation 6"). Env-C 612.06(l) authorizes a fine of \$600 for each container that is 55-gallons or greater and \$300 for each container that is less than 55-gallons for a potential fine of \$1,800.

7. A-Plus failed to conduct inspections of the hazardous waste storage area for a total of thirty-seven weeks (*i.e.*, November 3, 2003 through July 21, 2004), as required by Env-Wm 509.02(a)(1) ("Violation 7"). Env-C 612.07(a) authorizes a fine of \$1,000 per inspection per area per week, for a potential fine of \$37,000. For settlement purposes only, DES is seeking a fine for failing to conduct inspections at one (1) hazardous waste storage area for twenty-five (25) weeks, for a penalty of \$25,000 (*i.e.*, twenty-five (25) inspections at \$1,000 each).
8. A-Plus failed to maintain a personnel training program and provide initial hazardous waste training for one employee (Stanley Araszkiwicz) with hazardous waste management duties, as required by Env-Wm 509.02(a)(2) ("Violation 8"). Env-C 612.07(b) authorizes a fine of \$1,750 per individual not provided with initial training.
9. A-Plus failed to maintain spill control equipment within 100 feet from the main hazardous waste storage area, as required by Env-Wm 509.02(a)(4) which references 40 CFR Part 265, Subpart C ("Violation 9"). Env-C 612.07(d) authorizes a fine of \$1,250 per requirement not met per storage area.
10. A-Plus failed to maintain a contingency plan on-site, as required by Env-Wm 509.02(a)(5) ("Violation 10"). Env-C 612.07(e) authorizes a fine of \$2,000.
11. A-Plus failed to post adequate emergency information at the nearest telephone to the hazardous waste storage area, as required by Env-Wm 509.02(b) ("Violation 11"). Env-C 612.07(h) authorizes a fine of \$1,000 per area.
12. A-Plus failed to mark one (1) 55-gallon satellite storage container of hazardous waste located next to the plating line with the words "hazardous waste", as required by Env-Wm 509.03(g) ("Violation 12"). Env-C 612.07(j) authorizes a fine of \$1,000 per satellite storage area.
13. A-Plus failed to mark one (1) 5-gallon container of used oil destined for recycling with the words "Used Oil for Recycle", as required by Env-Wm 807.06(b)(4) ("Violation 13"). Env-C 612.10 (a)(2), which references Env-Wm 807.06(b)(2), modified in August 2000 to Env-Wm 807.06(b)(4), authorizes a fine of \$50 for each container that is less than 55-gallons.
14. A-Plus failed to ensure that one (1) 5-gallon container of used oil is closed at all times, unless oil is being added to or removed from the container, as required by Env-Wm 807.06(b)(5) ("Violation 14"). Env-C 612.10(b)(3), which references Env-Wm 807.06(b)(3) modified in August 2000 to Env-Wm 807.06(b)(5), authorizes a fine of \$50 for each container that is 5-gallons or less.
15. A-Plus failed to conduct an adequate used oil determination for used oil as required by Env-Wm 807.06(b)(7) ("Violation 15"). Env-C 612.10(c) which references Env-Wm 807.06(b)(4), modified in August 2000 to Env-Wm 807.06(b)(7), authorizes a fine of \$750 per determination not made.

V. PAYMENT, WAIVER OF HEARING

1. DES agrees to waive fines associated with Violations 11 through 14 because they are not Class I violations.
2. DES asserts that the following fines are appropriate for Violations 1 through 10 and 15, which are Class I violations.
 - a. Violation 1 is a Class I violation. No penalty reduction is recommended. DES is thus seeking a fine of \$4,000.
 - b. Violation 2 is a Class I violation. DES is seeking a penalty for failing to submit a renewal of permit # HW-LP-97-008 within ninety (90) days prior to the limited permit expiration. DES is thus seeking a penalty of \$900. DES has determined due to A-Plus' high level of cooperation in providing information and its effort to correct that violation, that a 20% reduction should be applied. DES is thus seeking a fine of \$720.
 - c. Violation 3 is a Class I violation. A-Plus documented that the waste lamps will be disposed of as universal waste. DES is thus seeking a penalty for failing to perform one (1) hazardous waste determination (*i.e.*, waste electroless nickel solution). DES is thus seeking a fine of \$1,500.
 - d. Violation 4 is a Class I violation. No penalty reduction is recommended. DES is thus seeking a fine of \$1,600.
 - e. Violation 5 is a Class I violation. No penalty reduction is recommended. DES is thus seeking a fine of \$750.
 - f. Violation 6 is a Class I violation. No penalty reduction is recommended. DES is thus seeking a fine of \$1,800.
 - g. Violation 7 is a Class I violation. No penalty reduction is recommended. DES is thus seeking a fine of \$25,000.
 - h. Violation 8 is a Class I violation. No penalty reduction is recommended. DES is thus seeking a fine of \$1,750.
 - i. DES is not seeking a fine for Violation 9. DES has determined that Violation 9 should be classified as a Class II violation because A-Plus provided information there was a wet vac within 100 feet of the main hazardous waste storage area and that they had used up their supply of speedi-dry and were in the process of ordering more speedi-dry for the storage area.

- j. Violation 10 is a Class I violation. No penalty reduction is recommended. DES is thus seeking a fine of \$2,000.
- k. Violation 15 is a Class I violation. No penalty reduction is recommended. DES is thus seeking a fine of \$750.

3. The total administrative fine for the Class I violations as described above is \$39,870. However, DES has determined that based on the fact that A-Plus is a small business, that an additional penalty reduction of \$7,974 (20%) should be applied for a fine of \$31,896.

4. DES agrees to suspend an additional \$27,896 contingent on A-Plus committing no violations of statutes or rules implemented by DES for a period of two (2) years from the effective date of this Agreement. If A-Plus is found to have violated this condition, regardless of when the determination is made, a pro-rated portion of the suspended fine shall be immediately due and payable without opportunity for hearing, in addition to any penalty that may be imposed for the new violations(s).

5. Upon compliance by A-Plus with the conditions specified in Section V. Paragraph 4, DES will waive the associated fine amount.

6. A-Plus agrees to pay \$4,000 within the next ten (10) months as follows:

- a. \$400 of the fine shall be due and payable upon execution of this Agreement by A-Plus.
- b. \$3,600 shall be paid in nine equal payments of \$400 due on the first of each month beginning June 1, 2006 and ending with the last payment due on February 1, 2007.

7. Payment under Section V. Paragraph 6 shall be paid by certified check made payable to: "Treasurer, State of New Hampshire" and shall be mailed to:

DES Legal Unit
Attn: Michael Sclafani, Legal Assistant
PO Box 95
Concord, NH 03302-0095

8. If any payment is made by check or money order that is returned due to insufficient funds, pursuant to NH RSA 6:11-a, DES may charge a fee in the amount of 5% of the face amount of the check or money order or \$25.00, whichever is greater, plus all protest and bank fees, in addition to the amount of the check or money order, to cover the costs of collection.

9. By executing this Agreement, A-Plus waives its right to a hearing on or any appeal of the administrative fines identified in this Agreement, and agrees that this Agreement may be entered into and enforced by a court of competent jurisdiction.

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10. The effective date of this Agreement will be the date on which it is signed by an authorized representative of A-Plus, and the Director of the Waste Management Division, and the Commissioner of DES.

11. No failure by DES to enforce any provision of this Agreement after any breach or default will be deemed as a waiver of its rights with regard to that breach or default, nor will such failures be construed as a waiver of the right to enforce each and all provisions of this Agreement on any further breach or default.

WHEREFORE, the parties voluntarily accept the terms of this Agreement.

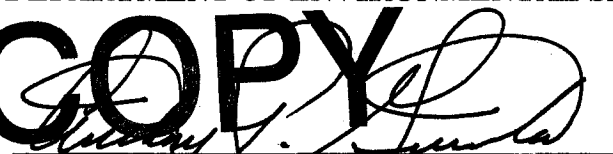
A-PLUS FINISHING, Inc.

COPY


By: Stanley Kraszkiewicz, Owner
Duly Authorized

5/2/06
Date

DEPARTMENT OF ENVIRONMENTAL SERVICES

COPY


Anthony P. Giunta, P.G., Director
Waste Management Division

5/8/06
Date

COPY


Michael P. Nolin, Commissioner

05 18 06
Date

cc:

RCRA/DB/AF
Paul L. Heirtzler, P.E., Esq., Administrator, WMD
Gretchen Hamel, Administrator, DES Legal Unit
Public Information Officer, DES PIP Office
Jennifer Patterson, NH DOJ